



May 16, 2012

**VIA E-MAIL**

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Re: Comments on Tentative Order for 625 Jackson Street, Fairfield CA

Dear Messrs. Wolfe and Aue:

This office represents Ann Lewczyk, as personal representative of the Michael McInnis Revocable Trust and Robert Dittmer with respect to the environmental matters that have arisen with respect to Mr. McInnis and Mr. Dittmer's ownership of 625 Jackson Street, Fairfield, CA ("Site"). This office is in receipt of the Tentative Order issued as against my clients, by the California Regional Water Quality Control Board, San Francisco Bay Region, ("RWQCB"), with respect to the Site. Set forth below are my clients' comments to the Tentative Order. For ease of reference my clients' comments will be set forth after the enumerated headings. The enumerated headings, to which the following comments are applicable, are set forth below in the same manner in which they appear in the Tentative Order.

**2. Site History:**

The Tentative Order states: *"Dry cleaning operations were conducted at 625 Jackson Street for about 50 years beginning in the mid-1950's."*

*"Jewell Hirsch was operating a dry cleaning business at the Site in 1965 when Robert Dittmer and Michael McInnis purchased the property from the Reid family."*

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*"Information currently available to the Regional Water Board indicates William Clarkson operated the dry cleaning business when it was first purchased by Jewel Hirsch in 1964."*

Deposition testimony and documentary evidence indicate that Fairfield Cleaners did not start dry cleaning operations at the Site until at least 1970 and that Mr. Clarkson never operated a dry cleaning business at the Site. Jewell Hirsch, according to deposition testimony, was not operating a dry cleaning business at the Site in 1965 when my clients purchased the Site from the Harris family. According to the deposition testimony of Ms. Hirsch, Fairfield Cleaners had operated as a laundry business and no dry cleaning was conducted at the Site until after she and her husband sold the business to the Trumbulls in 1970. Ms. Hirsch began to conduct dry cleaning operations at the Site after she purchased the business back from the Trumbulls in approximately 1975.

### **3. Named Dischargers**

The Tentative Order fails to name operators Ms. Appleby Stewart, Ms. Hazard and/or Ms. Lawling as dischargers. It is believed that these individuals owned and operated a dry cleaning business at 625 Jackson Street for approximately one year. With respect to liability, there are no distinctions made, nor exceptions to, the liability imposed under the Water Code for liability related to an individual's length of ownership and/or length of operation of a business suspected of discharging pollutants. As such, Ms. Appleby Stewart, Ms. Hazard, and Ms. Lawling should all be named as dischargers.

### **6. Remedial Investigations**

The Tentative Order indicates that there are "[D]iscontinuities in sewer lines have resulted in a release of contaminants to the environment." It is unclear if this statement is merely a general statement regarding sewers in general or if this is a statement that is directed at the particular sewer lines at, and in the vicinity of the Site. This ambiguity should be clarified prior to the adoption any Order. If this statement is intended to reflect any of the conditions of any of the sewer lines (laterals and/or mains) at, or in the vicinity of the Site, the RWQCB should identify which sewer lines have discontinuities and provide the factual information on which this statement is based.

The Tentative Order presents an incomplete picture of the PCE distribution at and downgradient of the Site. The Tentative Order compares PCE concentrations in groundwater samples collected from Monitoring Wells MW-12 and MW-12I (located over 350 southeast of the Site) to concentrations detected at the Site for the proposition

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that the “contaminants are migrating vertically through the water-bearing strata and downgradient from the site.” The language in the Tentative Order goes on to point out that the concentrations of PCE in MW-12 in the most recent sampling event (at the time) was 677 µg/L and 2,190 µg/L in MW-12I. However, the Tentative Order fails to point out that, with respect to the intermediate water-bearing zone, there are two monitoring wells located downgradient of the Site, yet up-gradient of 12I in which PCE was not detected or detected at up to three orders-of-magnitude less than in MW-12I (i.e. MW-18I [3.4 µg/L] and MW-16I [not detected; <0.5 µg/L]). Further, the distribution of PCE concentrations in the intermediate water-bearing zone clearly reflect a PCE source area located to the east-southeast of the Site.

In addition to the contaminant distribution, hydrogeologic investigations conducted to date further support the conclusion that MW12 and MW12I are not the proper wells for the RWQCB to determine the downgradient extent of the contamination discovered at the Site. MW12 and MW12I are to the East of the Site and are cross gradient from the Site. In fact, MW12 and MW12I are downgradient of the 622 Jackson Site and not the 625 Jackson Site. Based upon the data collected to date, the RWQCB should not use MW12 and MW12I to assess the downgradient extent of the contamination from the Site as MW12 and MW12I are Not downgradient of the Site.

## 8. Adjacent Sites

The Tentative Order states: “Groundwater samples collected at these two locations [622-630 Jackson and 712 Madison] have been reported to contain VOCs, and Stoddard solvent has also been reported in soil and groundwater samples collected at 622-630 Jackson Street.

Any Order adopted by the RWQCB should reflect the fact that Stoddard solvent was also detected at 61 µg/L in a soil sample collected from the 712 Madison Site in May 2011.<sup>1</sup> As such, any Order adopted by the RWQCB should require the dischargers at 712 Madison and 622-630 Jackson to begin to analyze all samples for EPA analytical

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<sup>1</sup> Only one sample collected from this Site has ever been analyzed by 8015. The one sample that was analyzed by 8015 revealed the presence of Stoddard solvent and also detected Mineral Oil at 60 µg/L. Currently, the consultants for the 712 Madison property are only performing 8260 analysis on all samples. Based upon the concentrations of Stoddard solvent and Mineral oil in the shallow soil at the 712 Site, any Order adopted by the RWQCB with respect to the 712 Site should require an 8015 analysis on all samples collected.

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method 8015 and EPA analytical method 8260 and to submit all chromatograms with the lab sheets at the time they submit their reports to the RWQCB.

## **B. TASKS**

### **3. RISK EVALUATION AND REMEDIAL INVESTIGATION WORKPLAN**

Based upon the work that has previously been accomplished for this Site, including the submission of the Site Conceptual Model ("SCM"), the RWQCB should please clarify what additional work is contemplated under this task. The previously submitted SCM evaluated site-specific human health risk and ecological risk, delineated and described the lateral and vertical extent of soil and groundwater pollution on and extending downgradient of the Site, and defined potential contaminant migration pathways. Any additional work required under this heading should be specifically set forth by the RWQCB with respect to this Site.

## **SELF MONITORING PROGRAM**

### **2. Monitoring**

The Tentative Order states: *"Groundwater samples from new wells in the shallow groundwater zone shall be analyzed by EPA Method 8260 and Method 8015, quantified as gasoline, diesel, Stoddard solvent, and motor oil unless otherwise directed by the Executive Officer. Groundwater samples from wells in the intermediate zone and deep zones shall be analyzed by EPA Method 8260."*

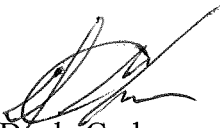
However, in the associated six columns Table, monitoring wells MW1I, MW12I, MW11I, and MW16I are all to be analyzed by EPA Method 8015. This inconsistency makes it difficult to comment upon this subject at this time. This inconsistency should be addressed by the RWQCB, prior to the adoption of any Order so that my clients have a fair and full opportunity to provide appropriate comments to any proposed requirements. Additionally, the Tentative Order identifies MW-14 and MW-14 does not exist. So, there are a total of 32 groundwater monitoring wells, of which 21 are shallow zone wells.

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Please do not hesitate to contact me if you have any questions regarding these comments to this Tentative Order.

Sincerely,

**ISOLA LAW GROUP, LLP**



Doyle Graham

DG/mdr